

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6153

BILL NUMBER: HB 1304

DATE PREPARED: Dec 20, 2001

BILL AMENDED:

SUBJECT: Unlawful Drainage Liability.

FISCAL ANALYST: Valerie Ruda

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FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill imposes liability on a governmental entity or on an employee of a governmental entity for a loss resulting from gross negligence, willful or wanton misconduct, or intentional misconduct in failing to provide adequate drainage from industrial or commercial sites.

Effective Date: July 1, 2002.

Explanation of State Expenditures: This bill potentially increases the number of lawsuits filed against governmental entities (defined as the State and a political subdivision of the State) and public employees of governmental entities. If a plaintiff is successful, there could be an increase in the damage awards that the State would have to pay. By statute, damage awards cannot exceed \$300,000 for the injury to, or death of, one person in any single occurrence and \$5 M for the injury to, or death of, all persons in that occurrence.

The Office of the Attorney General reports the amount of damages paid as a result of tort claims submitted and tort claim lawsuits filed against the State for CY 2000 was approximately \$5.9 M. The amount paid includes tort claims paid at the time of claim submission, settlements upon the filing of lawsuits, and claims paid as a result of a court order. It also includes cases in both federal and state court.

Explanation of State Revenues:

Explanation of Local Expenditures: By allowing a political subdivision or an employee of a political subdivision to be sued under the provisions of this bill, there is a potential for increase in the damages paid in a tort claim action. This bill would also increase expenditures associated with litigation.

Explanation of Local Revenues:

State Agencies Affected: Office of the Attorney General.

Local Agencies Affected: Political subdivisions.

Information Sources: Jennifer Thuma, Office of the Attorney General, (317) 233-6143.